

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RONALD GONDA)	CIVIL ACTION NO. 00-2286
)	
Plaintiff,)	DONETTA W. AMBROSE
)	
v.)	CHIEF JUDGE
)	
METROPOLITAN LIFE)	
INSURANCE COMPANY)	
AND WILLIAM FRIEDT, JR.)	
)	
Defendants.)	

**PLAINTIFF'S MOTION FOR LEAVE OF COURT TO FILE
PLAINTIFF'S PROPOSED JURY INSTRUCTIONS
AND VERDICT SLIP OUT OF TIME**

And Now Comes the Plaintiff, Ronald Gonda by and through his attorneys, Kenneth R. Behrend file the following Motion and aver in support thereof the following:

1. In April of 2006, this Court entered an Order scheduling the filing of the proposed joint jury instructions by Monday, July 17, 2006.
2. On May 16, 2006, this Court entered a second Order moving the date of filing the proposed joint jury instructions from July 17, 2006 to June 30, 2006.
3. On June 30, 2006, Plaintiff's counsel filed 15 Responses to Motions in Limine in the above mentioned case. While this was taking place, Kevin Miller, Esquire, who was also working on the jury instructions suffered a stroke. He was taken to Allegheny General Hospital, where he was admitted.
4. Realizing that the proposed jury instructions were also due, Ms. Humanik, Mr. Behrend's legal assistant realizing that something had to be done, contacted opposing counsel and explained the situation regarding Mr. Miller going to the hospital. Mr. Van Splinter, Esquire of

McCarter and English said he would try and contact Mr. Pendleton and get his permission for an extension, but he didn't think that there would be a problem due to the situation at hand.

5. Mr. Van Splinter assured Ms. Humanik that he would advise the Court that they had no objection to a seven-day extension due to the circumstances. However, he represented they would still be filing Defendants' Proposed Jury Instructions with the Court that day. Mr. Van Splinter at 5:24 p.m. sent a letter via facsimile transmission confirming they would not object to an extension of time. As it was late Friday afternoon of the Fourth of July weekend, 5:24 p.m., when the letter was received, the offices of Behrend and Ernsberger, P.C. were closed. Mr. Behrend left early that day because he was taking his family to visit his wife's parents for the holiday weekend and was unaware that there was a concern or problem about the filing of the jury instructions.

6. Plaintiff's counsel's office was closed on Monday July 3rd and Tuesday July 4th. On Wednesday, July 5, 2006, Mr. Miller returned to the office for a few hours, at which time he submitted to opposing counsel Plaintiff's Proposed Jury Instructions believing that everything was alright and that an additional seven days was acceptable. He has been out of the office since then and will return next Monday resting from his stroke.

7. Due to the unusual circumstances, Plaintiff respectfully requests that the Court permit the out-of-time filing of plaintiff's proposed jury instructions and verdict slip. The proposed jury instructions are materially the same as those submitted previously to this Court in the Tran and Solarchick cases. Further, Defendants will not be prejudiced by the slight delay since they have had the proposed jury instructions in their possession since last Wednesday. It is recognized and appreciated that the Court desires to have these matters resolved timely and before the trial so the trial will flow smoothly and with as little delay to the jury as possible. It is also recognized that this late filing may inconvenience the Court and for that Plaintiffs' counsel apologizes. However, it is

hoped that this delay will not cause the Court too much inconvenience and that hopefully there is still some time available to complete a review of the jury instructions since the trial is not to start until July 31, 2006.

WHEREFORE, Plaintiff respectfully requests that due to the unusual circumstances described herein that plaintiff is permitted to file out-of-time plaintiff's proposed jury instructions and verdict slip and allow plaintiff at this time to file the Proposed Jury Instructions and verdict slip, which are attached to this Motion for Extension of Time.

Respectfully submitted,

BEHREND AND ERNSBERGER, PC

/s/Kenneth R. Behrend

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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RONALD GONDA)	CIVIL ACTION NO. 95-19116
)	
Plaintiff,)	DONETTA W. AMBROSE
)	
v.)	CHIEF JUDGE
)	
METROPOLITAN LIFE)	
INSURANCE COMPANY)	
AND WILLIAM FRIEDT, JR.)	
)	
Defendants.)	

ORDER OF COURT

AND NOW this _____ Day of July, 2006, it is hereby ORDERED, ADJUDGED and
DECREED that Plaintiff's Motion for leave of court to file plaintiff's proposed jury instructions and
verdict slip out of time for extension of time to submit plaintiff's proposed Jury Instructions and
verdict slip is hereby GRANTED and the attached Plaintiff's Proposed Jury Instructions and verdict
slip are accepted as filed timely.

J.